

## REMARKS

The Office Action dated March 4, 2008 has been given careful consideration by the applicant. Claims 1, 10 and 18 have been amended, and claim 26 has been canceled. Claims 1-5 and 7-25 remain in the application. Reconsideration and/or reexamination of the application is hereby respectfully requested by the applicant.

### I. The Office Action

The Examiner rejected claims 1-2, 4-5, 7, 10-15, 18-20 and 23 under 35 U.S.C. §102(b) as anticipated by Shinohara (U.S. Pub. No. 2002/0132608).

The Examiner rejected claim 3 under 35 U.S.C. §103(a) as being unpatentable over Shinohara in view of Tervo *et al.* (U.S. Pub. No. 2004/0207719).

The Examiner rejected claims 8, 16 and 21 under 35 U.S.C. §103(a) as being unpatentable over Shinohara in view of Cox *et al.* (U.S. Pub. No. 2001/0044325).

The Examiner rejected claims 9, 17 and 22 under 35 U.S.C. §103(a) as being unpatentable over Shinohara in view of Turunen (U.S. 7,289,792).

The Examiner rejected claims 24-26 under 35 U.S.C. §103(a) as being unpatentable over Shinohara in view of Kring *et al.* (U.S. Pub. No. 2003/0105825).

### II. Rejection of Claims 1-2, 4-5, 7, 10-15, 18-20 and 23 Under 35 U.S.C 102(b)

The Examiner rejected claims 1-2, 4-5, 7, 10-15, 18-20 and 23 as being anticipated by Shinohara. It is respectfully requested that this rejection be withdrawn for at least the following reason. The cited portions of Shinohara fail to disclose each and every element of the claimed subject matter.

The claimed subject matter relates to mobile-to-mobile video capability on a network. A delivery preference for a user of a mobile station can be determined. In particular, independent claim 1 recites ***a call recognition module operative to ... determine a delivery preference for the second mobile station based at least in part on information retrieved from at least one database.*** Independent claims 10 and 18 recite similar features. The cited portions of the reference fail to disclose or suggest applicant's claimed subject matter.

Shinohara appears to allow the sender of a multimedia message to detect, before a message is sent, whether a destination mobile device is capable of receiving the message. This information is provided by a database server, which can store information relating to the formats of a multimedia message that a device

can receive. A sender can then decide whether to send a given multimedia message based on the format capabilities of the destination device.

Although Shinohara appears to convey information about acceptance of a message format for a given recipient, Shinohara fails to disclose or suggest determining a delivery preference. In Shinohara, the sender is limited to confirming delivery of video or rejecting video data. This is different than a determination of a delivery preference, which the Specification lists examples of as immediate, delayed, blocked or conditional. See Paragraph [0039]. Thus, determining whether a device can receive a message of a given format, as disclosed in Shinohara, is different than determining a delivery preference. Accordingly, Shinohara fails to disclose or suggest ***a call recognition module operative to ... determine a delivery preference for the second mobile station based at least in part on information retrieved from at least one database***, as claimed.

Moreover, claim 7 recites ***a call origination module operative to originate, based on the delivery preference, a subsequent call to the second mobile station to selectively prompt, based on the delivery preference, the second mobile station if the second mobile station is validated, receive the response to the prompt from the second mobile station and selectively forward the response to the control module***. Examiner contends that Shinohara discloses this claimed aspect at paragraphs [0044] – [0045] and [0047]. See Office Action dated March 4, 2008, pg. 7. Applicant's representative avers to the contrary.

As noted above, the cited portions of the reference fail to disclose or suggest determining a delivery preference. Similarly, the cited passages are silent regarding ***a call origination module operative to originate, based on the delivery preference, a subsequent call to the second mobile station to selectively prompt, based on the delivery preference, the second mobile station if the second mobile station is validated, receive the response to the prompt from the second mobile station and selectively forward the response to the control module***, as claimed. Accordingly, it is respectfully requested that this rejection be withdrawn.

Independent claim 18 recites ***wherein delivery preferences include a rejection of video data, immediate delivery of video data, delayed delivery of video data and conditional delivery of video data***. Dependent claim 26 previously recited this feature. The Examiner offers a combination of Shinohara and Kring *et al.*, contending that the combination of the cited references discloses this

claimed aspect. However, Shinohara and Kring *et al.*, alone or in combination, fail to disclose each and every element of the subject claim.

The Examiner relies on Kring *et al.*, asserting that Kring *et al.* teaches delivery preferences including a rejection and delayed delivery. However, the cited portions of Kring *et al.* merely make reference to these types of delivery methods and the use of preferences. Kring *et al.* does not fairly teach the concept of determining delivery preferences, as claimed. Thus, the combination of Shinohara and Kring *et al.* does not render the subject claims obvious. At the very least, the functions of selectively prompting a second mobile station based on a delivery preference and, based on the response or a delivery preference, performing at least one of maintaining, deleting or forwarding are not shown. These features, and others, provide a variety of advantageous options to the user, according to the presently described embodiments. Accordingly, the cited references, alone or in combination, fail to disclose or suggest a delivery preference as claimed.

In view of the foregoing, it is readily apparent that the cited portions of Shinohara fail to disclose or suggest each and every element of independent claims 1, 10 and 18. Furthermore, the Examiner's combination of Shinohara and Kring *et al.* fails to render claim 18 obvious. Therefore, it is respectfully requested that this rejection be withdrawn with respect to independent claims 1, 10 and 18 (as well as claims 2, 4-5, 7, 11-15, 19-20 and 23 which depend therefrom).

### **III. Rejection of Claim 3 Under 35 U.S.C. §103(a)**

Claim 3 stands rejected under 35 U.S.C. §103(a) as being unpatentable over Shinohara in view of Tervo *et al.* It is respectfully requested that this rejection be withdrawn for at least the following reasons. Claim 3 depends from independent claim 1, and the cited portions of Tervo *et al.* fail to make up for the aforementioned deficiencies of Shinohara with respect to independent claim 1. Accordingly, this rejection should be withdrawn.

### **IV. Rejection of Claims 8, 16 and 21 Under 35 U.S.C. §103(a)**

Claim 8, 16 and 21 stand rejected under 35 U.S.C. §103(a) as being unpatentable over Shinohara in view of Cox *et al.* It is respectfully requested that this rejection be withdrawn for at least the following reasons. Claims 8, 16 and 21 are dependent from independent claims 1, 10 and 18, respectively. The cited

portions of Cox *et al.* fail to remedy the aforementioned deficiencies of Cox *et al.* with respect to independent claims 1, 10 and 18. Thus, it is submitted that this rejection should be withdrawn.

**V. Rejection of Claims 9, 17 and 22 Under 35 U.S.C. §103(a)**

The Examiner rejected claims 9, 17 and 22 under 35 U.S.C. §103(a) as being unpatentable over Shinohara in view of Turunen. It is respectfully requested that this rejection be withdrawn for at least the following reasons. Claims 9, 17 and 22 depend from independent claims 1, 10 and 18, respectively, and the cited portions of Turunen fail to remedy the above-mentioned deficiencies of Shinohara with respect to independent claims 1, 10 and 18. Thus, it is submitted that this rejection should be withdrawn.

**VI. Rejection of Claims 24-26 Under 35 U.S.C. §103(a)**

The Examiner rejected claims 24-26 under 35 U.S.C. §103(a) as being unpatentable over Shinohara in view of Kring *et al.* It is respectfully requested that this rejection be withdrawn for at least the following reasons. Claims 24-25 depend from independent claims 1 and 10 (claim 26, as noted above, has been incorporated into independent claim 18). The cited passages of Kring *et al.* fail to cure the above-mentioned deficiencies with respect to the subject claims. Accordingly, it is respectfully requested that this rejection be withdrawn.

### **CONCLUSION**

For the reasons detailed above, it is respectfully submitted all claims remaining in the application (Claims 1-5 and 7-25) are now in condition for allowance. The foregoing comments do not require unnecessary additional search or examination.

In the event the Examiner considers personal contact advantageous to the disposition of this case, he/she is hereby authorized to telephone Joseph D. Dreher, at (216) 861-5582.

Respectfully submitted,

FAY SHARPE LLP



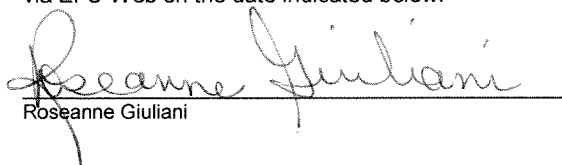
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